



Washington State Office of Civil Legal Aid

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To: Civil Legal Aid Oversight Committee
Washington State Access to Justice Board

From: Jim Bamberger, Director

Re: Quarterly Report for the Period April – June 2006

Date: June 1, 2006

Pursuant to RCW 2.53.020(3)(c), I hereby submit my written report for the quarter ending June 30, 2006. The report is somewhat early, so that it will be available for the June 9th meeting of the Civil Legal Aid Oversight Committee. To the extent possible, it describes activities likely to take place on or before June 30, 2006.

Effective June 30, 2006, the Office of Civil Legal Aid will have been in existence for one year. I will draft and submit an Annual Report to the Oversight Committee, the ATJ Board and the Supreme Court chronicling the activities and accomplishments of the Office of Civil Legal Aid and laying out the challenges ahead.

During the present quarter, the Office of Civil Legal Aid has been engaged in the following principal activities:

- Participated on the ATJ Board's State Plan Review Committee
- Issued an RFP and executed a contract with a third party consultant for identification and acquisition of a new statewide case management system
- Took concrete steps to effectively spend the \$600,000 in supplemental funding appropriated by the Legislature to support emergency services for domestic violence survivors
- Developed the substance of and rationale for the proposed FY 07-09 biennial budget request
- Consulted with members of Northwest Justice Project's Board of Directors and their executive search consultants with respect to NJP's Director search process.
- Participated on the Access to Justice Technology Principles Implementation Strategy Group
- Continued to manage the contracts with NJP and the Washington State Grange

I will briefly address each of these areas of activity below.

1. Access to Justice Board's State Plan Review Process

In December 2005, the Director of the Office of Civil Legal Aid was invited to serve on a reconstituted ATJ Board State Plan Review Committee. This Committee was charged with completing the process of reviewing and revising the ATJ Board's State Plan for the Delivery of Civil Legal Aid to Low Income People in Washington State. During the period from December through early May, the Committee met regularly and members of the committee assumed various responsibilities relating to writing, editing and data analysis. Members also met with representatives of a wide array of stakeholder organizations across the state, including the Civil Legal Aid Oversight Committee at its meeting on April 21st, to solicit input and feedback on various drafts of the revised State Plan. Final comments were received on April 30th, and final revisions were made to the draft by early May. The Access to Justice Board received a comprehensive presentation on, made some changes to and adopted the final revised draft of the State Plan at its annual retreat on May 8th. The Director of the Office of Civil Legal Aid has been asked to continue to serve on the newly established State Plan Oversight Committee (SPOC), which has been charged with overseeing implementation of the revised State Plan. A copy of the revised State Plan adopted by the ATJ Board is attached (Attachment 1).

2. Statewide Case Management System

One of OCLA's initial accountability initiatives is to facilitate the movement of all state-funded legal aid providers to a common case management system (CMS). A new CMS is required to (a) ensure consistency of data collection, management and reporting necessary for fiscal and administrative accountability, ensuring statutory and regulatory compliance and facilitating effective oversight and (b) achieve new efficiencies in client service delivery. Acquisition of and migration to a unified CMS was identified as a high priority in the ATJ Board's Technology Plan. Over the course of the past few months, the Office of Civil Legal Aid worked with key stakeholders to develop a process to procure a new statewide CMS.

Consistent with the state's 32100 technology consultant procurement process and following issuance of a competitive Request for Proposals, OCLA contracted with MTG Management Consultants to help identify core CMS requirements, develop an RFP for potential CMS vendors, facilitate effective testing, review and assessment of potential CMS products, and develop a plan for acquisition and migration to a new system. A copy of the contract with MTG is attached (Attachment 2).

OCLA has established a Technical Advisory Group (TAG) to work with MTG during the information gathering and requirements definition phases of the process. Representatives from the TAG will also be involved in field testing and conducting on-site visits to programs that are working with applications that MTG identifies as potentially responsive to the requirements that have been identified. The project timetable is such that we hope to have identified and procured a new statewide CMS by November 2006, with statewide implementation scheduled for the first quarter of 2007.

3. Coordination of Efforts to Effectively Spend the \$600,000 Supplemental Appropriation for the Provision of Services to Domestic Violence Survivors

As reported in the last Director's report, the Access to Justice Board appointed a working group to develop a plan for addressing the urgent civil legal needs of domestic violence survivors. This working group developed a delivery plan, which was submitted to and approved by the Access to Justice Board at its April meeting. A copy of the plan is attached (Attachment 3). This plan, along with the geographic equity requirements of RCW 2.53.030 and representations that were made in connection with the request for supplemental funding, establishes the framework for defining delivery expectations and related initiatives to address the urgent civil legal needs of domestic violence survivors. Specific action that has been taken: (1) NJP is in the process of hiring three new CLEAR advocates for statewide emergency response to domestic violence survivors; (2) OCLA, NJP and the LFW are working to make funding available to continue some level of extended representation for domestic survivors in three of the areas previously served by VOCA-funded programs (East King County, Snohomish County, Skagit County); (3) NJP has dedicated supplemental funding to bring the emergency representation component of Whatcom County LAW Advocates' previously VOCA-funded "Project Safer" program into its Northwest Regional Office (LAW Advocates will still coordinate pro bono involvement in providing continued representation after a case has been stabilized). Additional initiatives are being considered in consultation with representatives of the ATJ Board's Work Group on Legal Services to Domestic Violence Survivors, NJP, the Legal Foundation of Washington and the Washington State Coalition Against Domestic Violence.

4. Development of the Proposed FY 2007-09 Biennial Budget

RCW 2.53.020(3)(d) requires the Director of the Office of Civil Legal Aid to develop a biennial budget for state-funded civil legal aid services. While the duty to develop and submit the budget falls upon the Office of Civil Legal Aid, it is critical that the Civil Legal Aid Oversight Committee be comfortable with and able to support both the budget mark and its underlying rationale. To this end, time has been scheduled on the June 9th meeting agenda for a detailed presentation on the draft FY 2007-09 biennial budget.

A draft budget proposal is attached (Attachment 4). It frames the context, sets out the relevant client service objectives, and identifies budget levels necessary to meet these objectives. The draft budget is built on the expectations of the ATJ Board's newly revised State Plan for the Delivery of Civil Legal Aid to Low Income People in Washington. In addition to ensuring continuity of client services at existing levels, funding is sought for three primary client service initiatives: (a) establishment of minimum levels of legal aid presence in areas of rural Washington state where clients have no meaningful place to turn for help; (b) achieving geographic equity of client service capacity throughout the state consistent with the requirements of RCW 2.53.030(4) and the revised State Plan; and (c) establishing a centralized client intake/access system for low income residents of King County who are not served by NJP's CLEAR system. This budget request is designed to protect existing client service capacity and address critical service delivery issues identified by the State Plan and the Civil Legal Needs Study, doing both in ways that allow the OCLA to establish itself a credible agency with an ability

to deliver on the representations that it makes. I believe the draft budget is responsive to these objectives. There may be some who believe the budget falls short of the mark, particularly when compared with the revenue level identified by the Supreme Court's Task Force on Civil Equal Justice Funding to meet the needs identified in the Civil Legal Needs Study (\$18 million per year, \$36 million per biennium). While we could indeed make the case for a larger budget number, it is my judgment that this request, if funded, would represent a significant step in the right direction and allow the Office to demonstrate its effectiveness and accountability in the investment and oversight of these resources.

There is an additional important issue raised by this budget request. This issue relates to the categories of authorized legal representation set forth in the state statute. As the amount of state funding as a percentage of NJP's overall budget grows ever larger, so too does the challenge of ensuring that funds are spent consistent with the priority needs of clients and client communities, and that intake and case acceptance decisions are not dictated by categories of state-eligible activities set forth in RCW 2.53.030(2). During the current biennium, state funds will represent about 55-57% of NJP's total budget. Currently, about 60% of all time spent by NJP staff on client cases falls within areas of allowable representation under the state statute. The difference between the two numbers is that which allows us to demonstrate that no state funds are used directly or indirectly to provide representation to clients in matters falling outside of the listed areas in .030(2).

Should additional funding be appropriated at the suggested levels, the percentage of state funding to total NJP's overall funding will exceed the 60% figure, and we will have to more carefully scrutinize the situation to ensure that state funding is not used to underwrite activities beyond the scope of statutory authority. If we get to the point where the percentage of state funds substantially exceeds the percentage of time spent on state-eligible cases, we will have to address the problem directly. At this point there appear to be two logical approaches: (a) seek a change in the statute to bring the scope of representation more in line with the demand for client services experienced by NJP; or (b) over-allocate case acceptance decisions in favor of cases that fall within the scope of currently authorized activities, while proportionately reducing the amount of time that NJP attorneys spend on cases that, while they meet federal Legal Services Corporation eligibility considerations, fall outside the scope of areas authorized in .030(2).

The Civil Legal Aid Oversight Committee is responsible for making policy recommendations to the Supreme Court, the Legislature and the Access to Justice Board relating to the provision of state-funded civil legal aid services. At the present time, the Office of Civil Legal Aid is not suggesting that the Oversight Committee make any recommendation or suggest any change in the state statute. There are a number of circumstances that may mitigate against the need to take action during this legislative session even if the budget request were fully funded. These include the acquisition and implementation of a new case management system (which should provide greater accuracy in tracking time and allocating costs), actual experience in monitoring and observing the effect of case selection in new rural offices, incorporation of the case and time data associated with the FY 05-07 supplemental budget, and other factors. The OCLA will monitor the matter closely and report to the Oversight Committee if and when we reach the point where policy guidance will be required.

5. NJP Director Search Process

During this most recent period, the Director has worked with members of NJP's Executive Director Search Committee and consultants engaged by NJP on matters relating to the process to identify a new Executive Director. The NJP Board has established an aggressive time line for the search process and is actively looking for viable candidates from within and without the state, and from within and without the legal aid community. The Board is seeking to develop a rich pool of qualified applicants. If you know of individuals interested in the position, please encourage them to apply. A copy of the position announcement is attached (Attachment 5), and an electronic copy is available on NJP's website at http://www.nwjustice.org/about_njp/ED_profile.html.

6. Access to Justice Technology Principles Implementation Strategy Group

In December, 2004, the Access to Justice (ATJ) Technology Principles were adopted by Order of the Washington State Supreme Court. The Principles are a set of guidelines and expectations designed to ensure that the development and implementation of new technologies and the management of existing technologies by justice system organizations is done in ways that protect and advance the fundamental right of equal access to justice. The primary goal of the Principles is to avoid creating or increasing barriers to access and to reduce or remove existing barriers for those who are or may be excluded or underserved by the justice system. The Principles apply to all judicial branch agencies and organizations, as well as others subject to the rule-making authority of the State Supreme Court. The Court's order looks to the ATJ Board and the Administrative Office for the Courts as the principal entities with responsibility to oversee and facilitate effective implementation of and compliance with the Technology Principles.

The Technology Principles were developed over a three-year period, through a process that involved extensive research, analysis and negotiation, with input from a diverse group of some 200 people from a variety of disciplines. Washington State is the first state in the country to have such a court order in place. A copy of the Technology Principles and the Supreme Court's Order adopting them is attached (Attachment 6).

In 2005 an ATJ Technology Principles Implementation Strategy Group was convened to identify the activities necessary to bring the Principles to life at organizations and entities subject to the Court order. The group was charged with making recommendations as to where such activities might be located, and how they might be staffed. As the head of a judicial branch agency subject to the requirements of the Technology Principles, the Director of the Office of Civil Legal Aid was asked to serve on the Implementation Strategy Group. The Group also includes representatives from the Supreme Court, the private bar, the IT community, the University of Washington's Information School, professional communications consultants, legal aid program managers, judges and many others.

A final meeting of the Implementation Strategy Group is scheduled for Friday, June 2nd, and a final report will be submitted to the ATJ Board and the AOC by June 30th.

As an agency subject to the requirements of the Supreme Court's Order adopting the Technology Principles, the Office of Civil Legal Aid has included requirements for integration of and

compliance with the Technology Principles in its contracts with NJP, the Grange and MTG Management Consultants. The OCLA is also incorporating the Technology Principles in the planning for its soon-to-be-developed web site, which should be on-line by fall.

7. Contract Management

The OCLA continues to monitor contract performance both at NJP and at the Washington State Grange (which operates the agricultural employer-employee Alternative Dispute Resolution System).

(a) NJP: In April, the OCLA approved a subcontract between NJP and the Legal Foundation of Washington pursuant to which NJP makes funds available to help support the operations of 7 specialty and 24 pro bono legal aid programs for eligible clients on matters falling within RCW 2.53.030. The OCLA continues to work with NJP to revise the 2005-07 work plan to reflect changes resulting from the supplemental budget appropriation and other relevant considerations.

(b) Washington State Grange: The ADRS Program Coordinator, Meggan Stein, will be leaving the program this summer. Ms. Stein has been with the program since its inception. The Grange is in the final stages of hiring a new coordinator. In addition and consistent with contract requirements, the Grange is in the process of selecting an outside evaluator to assess the effectiveness of the program against program objectives. Finally, the Grange is in the process of finalizing a Memorandum of Understanding with the Washington State Human Rights Commission (HRC) pursuant to which the HRC will refer farmworkers with employment-related claims to the Grange's Alternative Dispute Resolution System for mediation.